
THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

MICHAEL A. GARNER,

Plaintiff,

v.

INTERNAL REVENUE SERVICE,

Defendant.

**ORDER ADOPTING [40] REPORT AND
RECOMMENDATION**

Case No. 2:22-cv-00071-DBB-JCB

District Judge David Barlow

The Report and Recommendation issued by United States Magistrate Judge Jared C. Bennett on April 22, 2024 recommends that the court dismiss Plaintiff Michael A. Garner’s case without prejudice on the ground of mootness.¹ The magistrate judge observed that Mr. Garner alleged that “the IRS failed to provide him with economic impact payments . . . related to the COVID-19 pandemic” and that subsequently, Mr. Garner informed the court that the facility in which he is incarcerated had received the economic impact payments.² Additionally, the magistrate judge observed that Mr. Garner was given the opportunity to show cause why the case should not be dismissed for mootness, and failed to respond.³ Accordingly, the magistrate judge recommended that the case be dismissed as moot.⁴ Finally, the magistrate judge advised Mr. Garner of his right to object to the Report and Recommendation within 14 days of its service pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).⁵ Mr. Garner did

¹ ECF No. 40, at 1, 3–5.

² *Id.* at 1, 3.

³ *Id.* at 3, 4.

⁴ *Id.* at 1, 5.

⁵ *Id.* at 5.

not file an objection. Therefore, the court reviews the Report and Recommendation for clear error.⁶ Having done so, the court finds that the magistrate judge's analysis and conclusions are sound, and no clear error appears on the face of the record.

Accordingly, IT IS HEREBY ORDERED that the Report and Recommendation⁷ is ADOPTED. The court DISMISSES Plaintiff's action without prejudice.

Signed May 16, 2024.

BY THE COURT



David Barlow
United States District Judge

⁶ *Johnson v. Progressive Leasing*, No. 2:22-cv-00052, 2023 WL 4044514, at *2 (D. Utah June 16, 2023) (citing *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999)). “[A] party’s objections to the magistrate judge’s report and recommendation must be both timely and specific to preserve an issue for de novo review by the district court or for appellate review.” *Port City Props. v. Union Pac. R. Co.*, 518 F.3d 1186, 1190 n.1 (10th Cir. 2008) (alteration in original) (quoting *United States v. 2121 E. 30th Street*, 73 F.3d 1057, 1060 (10th Cir. 1996)).

⁷ ECF No. 40.